REMARKS

Claims 9-24 were pending. No claim is allowed.

Applicants gratefully acknowledge the withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

Rejections Under 35 U.S.C. § 101 and § 112, first paragraph

Claims 9-23 are rejected under 35 U.S.C. § 101 for reasons already of record. Applicants traverse this rejection for reasons already of record as well as those discussed below.

Applicants again submit that the Office has adopted an incorrect standard in maintaining the instant rejection. A certain and exact disclosure of the biological role of the CD200R protein and its significance in a particular disease is not required in order to fulfill the utility requirement of §§ 101 and 112. In essence, the Office appears to seek proof beyond a reasonable doubt regarding the precise mechanism of action of the CD200R protein in a specific cell and/or a particular disease. However, such is not and has never been the correct legal standard for utility.

The instant specification discloses more than one specific, substantial and credible utility that satisfies the requirements of §§ 101 and 112. For example, the specification expressly discloses that antibodies that bind CD200R have significant therapeutic value in the treatment of diseases or conditions where modulation of function of myeloid lineage cells is desirable as well as in autoimmune disease, rheumatoid arthritis, and transplantation rejection. *See, e.g.,* the specification at page 74, lines 28-35; page 75, lines 7-12 and lines 22-26. Objective evidence of record overwhelmingly substantiates the asserted utilities as specific and substantial. Taken together with the disclosure in the specification, Applicants easily meet the utility requirement under 35 U.S.C. § 101.

For these reasons as well as those already of record, Applicants respectfully submit that the rejection under 35 U.S.C. §§ 101 and 112, first paragraph are overcome and should be withdrawn.

Rejection Under 35 U.S.C. § 112, First Paragraph - Enablement

Claims 9-23 remain rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the enablement requirement for reasons already of record. In particular, the Examiner asserts that the statute requires that the specification teach how to make and use the claimed invention according to the embodiments disclosed in the specification Applicants traverse this rejection.

The specification as filed provides reasonable enablement for the claimed antibodies and fragments thereof for reasons already of record as well as those discussed below.

The enablement requirement of section 112, first paragraph requires that the specification teach one of ordinary skill in the art to make and use the invention that is defined by the claims of the application, not the embodiments disclosed therein. As noted in the MPEP,

> when a compound or composition claim is not limited by a recited use, **any** enabled use that would reasonably correlate with the entire scope of that claim is sufficient to preclude a rejection for nonenablement based on how to use. ... In other words, if **any** use is enabled when multiple uses are disclosed, the application is enabling for the claimed invention.

MPEP § 2164.01(c) (emphasis added). Applicant again submit that more than one use is disclosed in the instant specification as well as detailed description on how to make the claimed compositions. Nothing more is required to satisfy the enablement burden.

In view of the above and the arguments already of record, Applicants submit the rejection is overcome request the rejection be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 140942000900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 31, 2007

Respectfully submitted,

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